

CITY OF NEWBERG COUNCIL MINUTES
NOVEMBER 18, 2013
7:00 PM MEETING
PUBLIC SAFETY BUILDING TRAINING ROOM (401 EAST THIRD STREET)

A work session was held prior to the meeting. Mr. Brad Allen, code enforcement officer, introduced himself and gave a brief description of his background. Discussion was held on council goals lead by MWVCOG Executive Director Nancy Boyer. No action was taken and no decisions were made. All councilors and the Mayor were present.

I. CALL MEETING TO ORDER

Mayor Bob Andrews called the meeting to order at 7:03 PM.

II. ROLL CALL

Members Present:	Mayor Bob Andrews	Denise Bacon	Mike Corey
	Ryan Howard	Stephen McKinney	Bart Rierson
	Lesley Woodruff		

Staff Present:	Lee Elliott, City Manager Pro Tem	Terrance Mahr, Acting City Attorney
	Barton Brierley, Planning & Building Director	Truman Stone, City Attorney
	Jessica Pelz, Associate Planner	Jenn Nelson, Deputy City Recorder
	DawnKaren Bevill, Minutes Recorder	

Others Present: Marc Willcuts, Douglas Cushing, Jane Greller, Jason Mullaney, Brandi Mullaney, Nina Boe, Chris Strange, Mark Darula, Gene L. Fournier, Mike Hanks, Fritz Graff, Saiko Mair, David Reitz and Russell Parlee.

III. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was performed.

IV. CITY MANAGER'S REPORT

Mr. Lee Elliott, city manager pro tem, reported he met with the Chamber of Commerce to discuss the possibility of the chamber hiring economic development staff. Mr. Elliott and Mayor Andrews are pursuing holding a regional economic development summit, and the springs divestiture will be discussed at the citizens' rate review committee meeting on Thursday, November 21, 2013.

V. PUBLIC COMMENTS

Mayor Andrews opened and closed the public testimony as no one appeared to testify.

VI. PUBLIC HEARINGS

1. Consider a motion adopting **Resolution No. 2013-3095** approving Supplemental Budget #1 for fiscal year 2013/2014.

Mayor Andrews introduced the administrative hearing and called for any conflicts of interest or abstentions; none appeared.

Ms. Janelle Nordyke, finance director, noted a correction to pages 5 and 15 of the meeting packet. The paragraph stating this “supplemental budget recognizes the grant revenue to be received in the 2013-2014 fiscal year in the amount of \$387,500.00” should read” \$387,840.00”. Staff recommends the adoption of the resolution.

Mayor Andrews closed the administrative hearing.

MOTION: **McKinney/Corey** moved to adopt **Resolution No. 2013-3095** approving Supplemental Budget #1 for fiscal year 2013-2014 as described in Exhibit A. Motion carried (7Yes/0 No).

2. Consider a motion adopting **Order No. 2013-0032** affirming the planning commission’s approval of the Terra Estates Subdivision located at 3805 Terrace Drive.

Mayor Andrews opened the quasi-judicial hearing and asked for any abstentions, bias, ex-parte contact, or objections to jurisdiction. The mayor sits as an ex-officio member on the traffic safety commission and in anticipation of potential inquiries regarding the Terra Estates, he did attend when the traffic study was given. Mayor Andrews asked Mr. Barton Brierley, planning & building director, to distribute copies of the study to the council. Any decisions he will make will be based exclusive of that ex-parte contact. No other conflicts were brought forward. Mr. Terrance Mahr read all legal announcements.

Ms. Jessica Pelz, associate planner, presented the staff report accompanied by a PowerPoint presentation (see official meeting packet for full report). Mrs. Pelz reviewed the tentative subdivision plat, applicable criteria, and traffic safety concerns. Based on the findings, the application meets the goals and policies of the Newberg Comprehensive Plan and the required criteria within the Newberg Development Code for a subdivision, subject to completion of the conditions. Staff recommends adoption of Order No. 2013-0032 affirming the planning commission’s approval of the Terra Estates Subdivision with the findings shown in Exhibit A and the conditions of approval in Exhibit B.

Mayor Andrews opened the public testimony and announced a final decision will be made at the December 16, 2013, city council meeting.

Proponents:

Mr. Marc Willcuts, Willcuts Company Realtors, believes the criteria had been met and even exceeded. Mayor Andrews asked if the smallest lot was not developed, how much of an impact would that make to the overall development. Mr. Willcuts replied the numbers are very tight and they are already developing fewer lots than the code allows.

Mr. Douglas Cushing, attorney representing the personal estate of Linda Hutchinson, said when Ms. Hutchinson passed away in 2006, the property was coming into the Urban Growth Boundary (UGB) and in November, 2008, the property was annexed into the city by vote. In 2012, the property was agreed to be sold and in the interim the city changed the minimum lot size in an R-1 zone. He asked council to approve the application.

Opponents:

Ms. Jane Greller, stated the PowerPoint slide shown during the staff report is not the same seen at the planning commission meeting. She asked the city council to protect the integrity of the process as she believes the process has been compromised. All of her testimony entered into the record to date was based on an

unacknowledged comprehensive plan she was not aware of. She fully expected any information on the city website would be accurate, legal, and truthful. Ms. Greller would like to see the findings when their subdivision was developed, because in the annexation document it states “a traffic safety issue exists and upon development of this subdivision, may need to be reviewed.” She does not believe she should have to make a public records request for this, but rather staff should supply those asking with the information. She wants to see this subdivision conforms to the legal and governing density of the city’s comprehensive plan. Regarding the process, the density table in the PowerPoint is different and she wants to see the medium density in the comprehensive plan. Two pages of stapled, written testimony went missing after she submitted it, thus she had to resubmit it. The PowerPoint was not submitted in the record for the hearing tonight and staff told her that was because it was used previously and it is already considered part of the record. She disagrees it is considered record tonight if it was seen by the planning commission at their meeting. Staff and the city have a responsibility to include all of the information in the record. She objects to reading on the website for the hearing tonight the city council may vote to accept testimony into the record or not. Ms. Greller believes that misrepresents the rights of citizens and they need to take the testimony. It is not flexible and should be removed from the website and the back of the agenda. She referred to the staff report stating there is a glaring mistake identifying the subdivision on the zoning map as R-1 low-density residential and on the plan map identified as medium-density residential. The law requires the two maps be the same and she was told by staff it was a typographical error. Staff has a responsibility to correct errors. The acknowledged comprehensive plan will state the target density is up to 4.4 units per acre and up to 8.8 for medium density and “up to” sounds like a limit. The word “target” does not allow averaging. The criterion for this development is not restricted to ones shown and the number one purpose of the development code is to implement the comprehensive plan. She came to a planning commission meeting and asked about the language in the plan that states “to 2010” and “through 2010”. Once she received the acknowledged comprehensive plan she saw it is good “until 2010” because there was a remand from Land Use Board of Appeals (LUBA) that sent back the lands inventory and housing supply data to the city and nothing has been done to it during the intermittent three years. Approving an ordinance to reduce minimum lot size was done under an unacknowledged comprehensive plan. The city council is entrusted with the responsibility of being sure land use decisions are made appropriately. The comprehensive plan questions raised in a hearing need to be addressed in the city council’s decision and if that does not happen, the city council will be getting this back again. She referred to page 460, a memorandum from the engineer that did a traffic study addressing the left hand turn question that has been asked since June 6, 2013, with pictures; emailed to the city engineer asking the city to have the traffic safety commission study the area. After the record has been closed and planning commission has approved it, and after she paid money to come and testify again before the city council; she still does not see an answer five months later. Ms. Greller asked the traffic issue be corrected and that the application conforms to the R-1 standards in the comprehensive plan. She entered into the record the unacknowledged plan she worked with all summer.

Mr. Jason Mullaney stated information was presented at this meeting by staff he has never seen before. Most of the 30–40 letters sent for this proposal were in regards to multiple traffic issues, the most critical is the left hand turn off Highway 219 onto Terrace Drive has never been addressed. Traffic studies have been requested multiple times, including the request for a four-way stop or traffic reduction at the intersection of Natalie Drive and Morris Street brought before the planning commission on August 8, 2013. The planning commission recommended taking concerns to the traffic safety commission. The following traffic safety commission meeting was cancelled because there were no agenda items, although a planning commission member suggested the director take the citizens’ concerns to the traffic safety commission; but that did not occur. Mr. Mullaney stated the many letters and oral and visual testimonies have not been addressed. Mr. Mullaney met with the developer and discussed the many issues, but the bottom line is not what drives these decisions. He expressed the difficulty interacting with the city as a citizen. If the documentation on the website and the ability to obtain accurate information from the planning staff was any other business, they would be out of business. Every step to gain information has been met with one problem after another and at times seems deliberate. Another example is the Natalie Drive and Morris Street intersection; the planning director stated it should be the

financial responsibility of the current neighborhood, not the developer, who is now going to add a 44 lot subdivision and create more traffic. Four stop signs may not be much money, but it should not be the citizens' responsibility regarding safety. The original annexation proposal for Terra Heights shows a traffic safety issue was identified at the Terrace Drive/College Street intersection; however, on October 25, 2013, five months after the initial concern, after the planning commission approved the subdivision, and after a citizen filed an appeal, a letter mentioning this intersection from the senior transportation engineer was added to the record by the planning director. If there was an issue before, then 44 more houses will make this worse and it needs to be addressed. Citizens have tried to follow the process even though it has been incredibly expensive. Ms. Greller has had to pay \$795.00 for an appeal, costing much more than any other local city charges, just in the hopes to make traffic accountable. She should be reimbursed for the expense.

MOTION: **Howard/Rierson** moved to accept the written testimony from Mr. Jason Mullaney. Motion carried (7 Yes/0 No).

Mr. Chris Strange stated he believes staff has been passive regarding the intersection at Highway 219. He is frustrated over the affordable housing issue and now the city wants to fit in low-cost housing so people with issues have a place to live. He has owned his land for 15 years and owned a home there for 13 years. He was encouraged by the annexation and thought he could build another home, as he enjoys building; but, he will move out if affordable housing goes in.

Mr. Mark Darula asked the council to reject the proposal because the process is flawed. It meets the code, but not the comprehensive plan. The comprehensive plan and code are one document and should work together and the process has been extremely difficult for citizens to follow and even find. He does not understand why it is so difficult to receive information from staff. He wants to know why information was withheld regarding the planning process in the study done. It was voted in with the intention of 7,500 square foot size lots and now the change is 5,000 square feet. Mr. Brierley was asked why and an answer has never been received. The city council has an obligation to the voters, especially after \$795.00 has been paid. He asked why the voters' decision has been changed. In regard to the traffic on Highway 219 to Terrace Drive, the proposal stated there was a traffic issue, yet staff continued forward when there was previous information a problem was there. City engineers have been contacted with more run-arounds. Why the traffic safety commission cancelled a meeting because there was nothing on the agenda is beyond him. A member of that traffic safety commission was at the planning commission meeting when this was heard. At the very minimum, removal of the tree and covering the pipe in the culvert should be done. This is a safety issue with \$3,000.00 of damage to his wife's car.

Mr. Gene L. Fournier read a letter from Mr. Melvin Pallor who owns the property to the west of the proposed subdivision.

MOTION: **Rierson/McKinney** moved to accept the written testimony from Mr. Melvin Pallor. Motion carried (7 Yes/0 No).

Mayor Andrews closed the public testimony.

Rebuttal:

Mr. Terrance Mahr stated this closes the public testimony both written and oral. The applicant has seven days for written argument and will ask the applicant whether he wants to take advantage of that or not. In discussion with the applicant, staff talked about anticipating closing the record portion tonight and returning, deliberating and making a final decision on December 16, 2013.

Mr. Mike Hanks, applicant, wants the additional seven days to summarize the information heard and agreed to the final decision being made on December 16, 2013. Mr. Mahr stated the applicant will need to submit final argument by Monday, November 25, 2013. Mr. Hanks has developed here for 20 years and has always found staff to be helpful and very nice.

Mr. Brierley reminded the council this is a quasi-judicial land use decision and all decisions must be based on the criteria standards and development code. The development code is part of the comprehensive plan and is acknowledged as complying with state-wide planning goals and is the rules that govern this particular subdivision. The statements in the comprehensive plan contain aspirational goals but are not criteria for approval or denial of a particular subdivision. The planning commission decision did include a requirement the applicant install stop signs at his expense if found warranted. It is also a condition that the applicant make improvements at Highway 219/Terrace Drive intersection.

Mayor Andrews recessed the hearing for 10 minutes.


VII. COUNCIL BUSINESS

Councilor Lesley Woodruff asked for council input regarding Mr. Truman Stone, city attorney, continuing to serve on the Board of Trustees for George Fox that meets once in March and once in October, during city work hours. The consensus of the council was to allow Mr. Stone to continue to serve on the board.


VIII. ADJOURNMENT

The meeting adjourned at 9:45 PM.

ADOPTED by the Newberg City Council this 17th day of March, 2014.


Jennifer L. Nelson, Acting City Recorder

ATTEST by the Mayor this 20th day of March, 2014.


Bob Andrews, Mayor